

INITIAL STATEMENT OF REASONS

Hearing Date: January 20, 2005

Subject Matter of Regulations: Waiver of Continuing Education Requirements

1. SECTION 2085.2 CONTINUING EDUCATION WAIVERS

SPECIFIC PURPOSE OF THE REGULATION

The specific purpose of this regulatory proposal is to amend those regulations related to the review process and the criteria necessary to qualify for a waiver from continuing education required for license renewal. This regulatory proposal will require additional documentation to be submitted with the waiver request to enable the Veterinary Medical Board (Board) to have as much information as possible in order to make a determination on the request. The proposal will also extend the time frame for the board to review and make a decision on the request. This additional time will make reviews more consistent and more thorough as the additional time will allow the reviews to be made during quarterly Board meetings. The proposal will change the requirements licensee's must meet to qualify for a waiver. By clarifying these criteria, the Board can ensure that only those veterinarians who are in need of the waiver receive the exemption. The proposal adds the authority to deny the waiver based on consumer and animal protection issues and authorizes the board to use information from the request for further disciplinary action when necessary.

PROBLEM ADDRESSED.

Business and Professions Code section 4846.5 provides that all veterinarians wishing to renew their veterinary license on or after January 1, 2002, must complete 36 hours of approved continuing education (CE) courses. Subsection (h) authorizes the Board to exempt veterinarians from the CE requirement, if for designated reasons the veterinarian cannot meet those requirements. During the first two years of the program, the Board has had the difficult task of reviewing waiver requests. These reviews prompted a need to clarify and amend the waiver requirements.

2085.2 (a)

During the first two years of the program, waiver forms were received with no supporting documentation and/or no letter explaining why the licensee was requesting the waiver. No other information was given that would have assisted in the Board's review of the request. These requests were returned to the licensee with a request to include copies of supporting documentation and information (a letter of explanation) on their request, i.e., when the injury incurred, the relative they are in care of, etc. Without any supporting documentation, the Board has found it impossible to make a determination on the requests. A letter detailing the request and supporting documentation should be two key requirements for the Board's review. The amendment to these regulations is one method the Board is pursuing to encourage licensees to submit completed requests.

The current regulation allows the Board 30 working days to make a determination on a request for a continuing education waiver. The Board believes that each request should have the benefit of a full review by each member of the Continuing Education Committee (who are members of the Board that meet during the regular Board meeting). These waivers are received at random times and typically, the members discuss the requests, express opinions, ask questions, etc. With only 30 working days to review and respond with a determination on the request, the requests often have to be mailed to each

member for review with a voting ballot. This process has become difficult and potentially unfair to the licensee. When requests are received prior to a Board meeting, a portion of that meeting is in closed session for members to review each request and discuss any issues or problems. In order to be consistent with waiver reviews, the Board believes that a 30 working day review time frame is problematic and should be increased to 75 working days in order to facilitate reviews during Board meetings.

2085.2 (c)(2)

The Board's concern for animal and consumer safety warrants additional review of the requirements a veterinarian must meet in order to qualify. The current regulations allow a veterinarian the opportunity to apply for a waiver if they have met one of two criteria during the licensee's current license period:

1) prevented from practicing veterinary medicine for at least one year, or 2) prevented from completing CE for at least one year. Based on the criteria, if a licensee is working, but hasn't been able to complete CE (due to an undue hardship), the waiver must be granted. The problem the Board has been faced with is granting a waiver to a veterinarian who states that they can practice with a stipulated injury but are unable to complete CE. The Board believes this is a problem. The Board believes that it is necessary to ensure that all veterinarians are still meeting a minimum standard of competency throughout their licensure period. Granting waivers to people who have practiced but have not or state that they can't complete CE has raised concerns over whether that was truly the intent of the law.

2085.2 (d)

Past waiver requests submitted have had documentation that meet the established criteria for approval of a waiver, but have also identified that the requesting veterinarian may not be mentally or physically able to practice veterinary medicine. Once the waiver is granted, the veterinarian can practice, order pharmaceuticals, etc. without completing any CE. The Board determined that these types of requests may put consumers and animals at risk. Currently, the Board has had no authority to deny a request. In addition, the Board has also received requests with documentation that indicates the requesting veterinarian has violated the Veterinary Medicine Practice Act. Currently, the Board has no authority to use the information from the request as evidence to open an investigation to determine if a violation exists. Reviewing requests that included this type of information prompted the need for the Board to strengthen the regulatory requirements for approval and allow the Board the authority to deny a waiver, if there is a question of consumer and animal safety.

FACTUAL BASIS/NECESSITY

The Legislature adopted the Veterinary Medical Board's continuing education program (Business and Professions section 4846.5) because there is a need for veterinarians to maintain a minimum level of competency. By requiring veterinarians to complete a specified number of continuing education hours, the Legislature's intent is to protect the health and safety of both consumers and animals.

2085.2 (a)

The current regulation allows the Board up to 30 working days to review and make a determination on a request for waiver. The waiver requests are reviewed by a committee of Board members. To facilitate this review, the Board makes every effort to review requests during their quarterly board meetings. Because the Board meets approximately every 90 days, the need to give additional time for review and determination is paramount. The Board believes that each request deserves to be reviewed by a member who can give the request its due attention. Although the change will require requests to be made farther in advance, it will benefit the veterinarian by having additional time to complete CE if the waiver is denied.

Previous requests not received in time to be reviewed at a regularly scheduled Board meeting, have been mailed out to members with a mail ballot. Unfortunately, each member typically has questions on the information that was submitted. Reviewing them at regular meetings enables each member to commit time, ask questions, discuss the request, question staff about additional information that may have arrived etc. There is a great need to have the process consistent for each request. The Board meets an average of every 63 working days. Increasing the review and response time to 75 working days would accommodate each request received, staff and board member review.

2085.2 (c)(2)

During the previous two years the Board has received several requests with no supporting documentation and a majority of requests have arrived without a cover letter stating the circumstances surrounding the request. Without sufficient information included with the waiver form, the Board is unable to review the request and make a determination. A cover letter explaining the situation, identifying the time frame, problem, health condition, etc. and a copy of a doctor's letter stating the problem, injury and the time frame in which it has been occurring is a necessity for the Board to make a decision on the requests. The current regulation does require supporting documentation, however the Board believes the proposed changes would make it clearer. Requests received without supporting documentation are denied and a letter is sent indicating the denial and the need for additional information for further review. The Board is unable to give a request it's due attention unless the request is complete and includes information to substantiate the timeframe, and supporting documentation to verify the request.

The statute requires the Board to review requests from veterinarians to waive the continuing education requirements for license renewal, if the request meets specific criteria. Unfortunately, the criteria that was established has created some potential conflicts with the Board's mandate to ensure consumer and animal protection. The current regulation allows a veterinarian to request a waiver if he/she has been prevented from completing CE or prevented from practicing for at least one year during their current license period. There is a need to strengthen this requirement for a veterinarian to meet both criteria before a waiver is granted. Previously submitted requests have identified that a veterinarian can work, but somehow be unable to complete CE. The Board believes that a veterinarian who can practice, should be able to complete CE. With the broad range of CE opportunities, the Board feels strongly that each veterinarian should give every effort to maintain a minimum level of competency and completing continuing education courses is one way to maintain a minimum standard of practice. A waiver should only be granted if the veterinarian has not been working and has been unable to complete the CE. The change requires the veterinarian to either be practicing and meet the CE law or have been unable to practice and unable to complete CE. This proposed change is necessary to ensure that all veterinarians are being held to the same standard and that the Board has more clearer criteria by which to approve or deny a CE waiver.

In reviewing prior requests the Board has determined that there are circumstances that have warranted a CE waiver denial based on consumer and animal protection issues. Requests have included documentation that have established that veterinarians have practiced veterinary medicine against the recommendation of their own physician based on physical or mental impairments. Veterinarians have also submitted documentation identifying that they have practiced without a valid license, which is a violation of the Veterinary Medicine Practice Act. Based on these incidents, the Board felt it was imperative to add a section in the regulations that gave the Board the authority to deny a waiver if consumer or animals were at risk or if the information that was submitted identified that the veterinarian was in violation of the law.

UNDERLYING DATA

Technical, theoretical or empirical studies or reports relied upon:
None

BUSINESS IMPACT

These regulations will not have a significant adverse economic impact on businesses.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

These regulations do not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

No alternative which was considered would be either more effective than or equally as effective as and less burdensome to affected private persons than the proposed regulations.